IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. 2466 OF 2002.

Vasant Ganesh Kelkar ...Petitioners
V/s
Government of India ...Respondent.

Mr.S.N. Bhosale for the petitioner.

CORAM : B.H. MARLAPALLE &
J.H. BHATIA, JJ.

DATE : 11TH DECEMBER, 2006.

P.C.

. Heard Mr. Bhosale, the learned Counsel for the petitioner, who had approached us in the earlier round in Writ petition No.1509/1997 and for the very same relief which is sought in this petition.

2. For the period from 1/5/1978 to 1/5/1979 the petitioner was not allowed to cross the efficiency bar and he retired in the year 1993. The respondent-authority had filed a detailed affidavit-in-reply in Writ Petition No.1509/1997 and pointed out that his first petition i.e. Writ Petition No.4390/1993

filed before this Court was returned to the Central Administrative Tribunal by an order dated 8/7/1996 and the same came to be re-registered as original application No. 1121/1996. The CAT by its order dated 19/12/1996 dismissed the said application on account of limitation in as much as the cause of action had arisen prior to 1982.

3. In Writ Petition No.1509/1997, this Court had considered the affidavit-in-reply filed by the respondents and more particularly the averments that the Departmental Promotion Committee by taking into consideration the ACRs of the petitioner, had recommended that he should not be allowed to cross the efficiency bar. The ACRs of 1977-78 and 1978-79 were before the DPC and F.R. 25 clearly stated that the increment beyond the efficiency bar shall not be given to the Government servant without specific sanction of the competent authority and obviously, the competent authority's decision is based upon the recommendations of the DPC. Admittedly, with effect from 1/5/1980 the petitioner was allowed to cross the efficiency bar.

4. It is thus, clear that his grievance was already

dealt with in Writ Petition No.1509/1997 by this Court, and therefore, this petition on the ground of DPC was not made party in the earlier petition, is totally misconceived.

5. The same is hereby rejected summarily.

(J.H. BHATIA, J.) **(B.H. MARLAPALLE, J.)**